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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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EXAMINER

NGHIEM, MICHAEL P

ART UNIT

PAPER NUMBER

2863

DATE MAILED: 04/26/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 09/812,809 | Applicant(s) PETITE, THOMAS D. | |
| | Examiner Michael P Nghiem | Art Unit 2863 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11, 13 and 17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Amendment filed on February 17, 2004 has been acknowledged.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11, 13, and 17 are rejected under 35 U.S.C. 102(e) as being anticipated by Grabowski et al. (US 6,305,602).

With respect to claims 1, 13, and 17, Grabowski et al. discloses a system (10) to monitor the level of light in an area (Fig. 1) comprising:

- at least one sensor (40) that measures the level of light in a lighted area (Fig. 2);
- at least one transceiver (30) that communicates information regarding the level of light in the lighted area, via a communications network (Abstract, lines 6-8, Fig. 1),

the transceiver configured to repeat messages received from the other transceivers (54) associated with other sensors (40's of 22, 24, 26) (30 receives messages from 22, 24, 26 and transmits them to 32, Fig. 1);

- a central system (32) that communicates with the transceiver via the communications network (Fig. 1);

- a network (network including keyboard) that allows access to the central system (Fig. 1).

With respect to claim 2, Grabowski et al. discloses that the lighted area is one selected from the group consisting of a parking structure, a building, a residence, an underground facility, and a street (14, Fig. 1).

With respect to claim 3, Grabowski et al. discloses that a sensor is one selected from a group consisting of a light sensor, and a camera sensor (light sensor 40's of 22, 24, 26).

With respect to claim 4, Grabowski et al. discloses that the central system comprises of a memory (memory of computer of 32) and a processor (processor of computer of 32) (Fig. 1).

With respect to claim 5, Grabowski et al. discloses that the communications network comprises of a Public Service Telephone Network (column 9, lines 43-45).



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With respect to claim 6, Grabowski et al. discloses that the communication network communicates with another communication network via a gateway (Internet communication, column 5, line 57).

With respect to claim 7, Grabowski et al. discloses a central processing unit (computer of 32) and a memory (memory of 32) communicates with the sensor and the transceiver (Fig. 1).

With respect to claim 8, Grabowski et al. discloses that the transceiver communicates information with a transceiver (54) in another lighted area (30 is in another lighted area as opposed to 24, Fig. 1), wherein the communication between the transceivers form an RF cloud (column 8, lines 10-11, column 9, lines 28-29).

With respect to claim 9, Grabowski et al. discloses that a person who is a technician or a customer, can access the central system (via keyboard, column 11, lines 28-33).

With respect to claim 10, Grabowski et al. discloses that the network is selected from a group comprising the Internet, the wide-area network, and a local network (column 5, lines 55-57).

With respect to claim 11, Grabowski et al. discloses that the RF cloud forms a backbone that allows a transceiver in a remote lighted area to communicate with the central system via the communications network (54 communicates with 64 via RF).

Response to Arguments

2. Applicant's arguments filed on February 17, 2004 have been fully considered but they are not persuasive.

With respect to the 35 USC 102 rejections, Applicants argue that Grabowski does not teach the limitation of "the transceiver configured to repeat messages received from other transceivers associated with other sensors".

Examiner's position is that Grabowski teaches that the transceiver (30) is configured to repeat messages received from the other transceivers (54) associated with other sensors (40's of 22, 24, 26) (30 receives messages from 22, 24, 26 and transmits them to 32, Fig. 1).

Applicants further argue that the instant application is a Continuation-In-Part (CIP) of 09/412,895, which was a CIP of 09/172,554, filed on October 14, 1998. Thus, the effective filing date of the instant application is October 14, 1998. The filing date of Grabowski is November 23, 1998.

Examiner's position is that since the instant application is a CIP of 09/412,895, it contains new matter which cannot benefit from the earlier filing dates of 09/412,895 and 09/172,554. Thus, the effective filing date of the instant application is March 20, 2001. The effective filing date of Grabowski is the filing date of its provisional application 60/067,010, which is December 1, 1997.

Conclusion

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Contact Information

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Nghiem whose telephone number is (571) 272-2272. The examiner can normally be reached on M-H from 6:30AM – 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Barlow can be reached at (571) 272-2269. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.



MICHAEL NGHIEM
PRIMARY EXAMINER

Michael Nghiem

April 22, 2004